REMARKS

Claims 13-21 are pending in the application. Claim 14 is allowed. Claims 13, 17, 20 and 21 are rejected. Claims 15, 16, 18 and 19 are objected to as being dependent upon a rejected base claim.

Claim Rejection – 35 USC §102

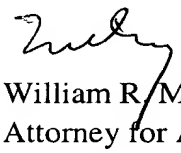
Claims 13, 17, 20 and 21 are rejected under 35 U.S.C. 102(a) as being anticipated by Debrus et al. The claims are rejected essentially because the Examiner reads Debrus et al. activity (i.e., immunizing a laboratory animal to generate a biological reagent for use in further studies) to read on the instant claims. It should be noted that Debrus did not intend to treat "a patient suffering from or susceptible to Varicella Zoster virus infection", but merely to generate a laboratory reagent. In fact, at the time that the Debrus reference was published, one skilled in the art did not know that rabbits were susceptible to VZV infection: the Dunkel reference cited by the Examiner was published in December of 1995, well after the May 1995 publication date of Debrus. Therefore, it could not have been Debrus et al. intention to treat rabbits for VZV. There is no disclosure or suggestion in Debrus of administering a pharmaceutical composition to a patient of any species with IE63 with the intention of treating or preventing VZV infection or disease. Nonetheless, Applicants have amended Claim 13 to limit the claimed method to treatment of humans. Support for this amendment can be found throughout the instant specification, and in particular at page 2, lines 26-29.

Claims 20 and 21 are rejected as anticipated by Debrus et al. Applicants have amended Claim 20 to indicate that the composition must be safe and effective (support can be found in the instant specification at page 2, line 28) and that the excipient must be pharmaceutically acceptable for use in humans. Applicants respectfully assert that one skilled in this art would not consider Freund's adjuvant, either complete or incomplete, to be a pharmaceutically acceptable excipient or adjuvant. Moreover, Applicants respectfully assert that the formulations disclosed by Debrus et al. (i.e., and IE63-GST fusion protein in 10mM reduced glutathione) would not be consider by those skilled in this art to the safe and effective or human pharmaceutically acceptable.

In view of the amendments to the claims and the remarks provided above, Applicants respectfully submit that the subject application is in condition for allowance.

If the Examiner has any remaining objections or concerns, the Examiner is respectfully requested to contact Applicants' undersigned attorney to resolve such issues and advance the case to issue.

Respectfully submitted,



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